

specific dates or by Notice to Mariners 20 days prior to the event for those events listing a period for which a firm date is identifiable. In all cases, further information on exact dates, times, and other details concerning the number and type of participants and an exact geographical description of the areas are published by the Eleventh Coast Guard District in the Local Notice to Mariners at least 20 days prior to each event. To be placed on the mailing list for Local Notice to Mariners contact: Commander (dpw), Eleventh Coast Guard District, Coast Guard Island, Building 50-2, Alameda, CA 94501-5100. *Note:* Sponsors of events listed in Table 1 of this section must submit an application each year as required by 33 CFR part 100, subpart A, to the cognizant Coast Guard Sector Commander. Sponsors are informed that ample lead time is required to inform all Federal, state, local agencies, and/or other interested parties and to provide the sponsor the

best support to ensure the safety of life and property.

(b) *Special local regulations.* All persons and vessels not registered with the sponsor as participants or as official patrol vessels are considered spectators. The "official patrol" consists of any Coast Guard; other Federal, state, or local law enforcement; and any public or sponsor-provided vessels assigned or approved by the cognizant Coast Guard Sector Commander to patrol each event.

(1) No spectator shall anchor, block, loiter, nor impede the through transit of participants or official patrol vessels in the regulated areas during all applicable effective dates and times unless cleared to do so by or through an official patrol vessel.

(2) When hailed and/or signaled by an official patrol vessel, any spectator located within a regulated area during all applicable effective dates and times shall come to an immediate stop.

(3) The Patrol Commander (PATCOM) is empowered to forbid and control the movement of all vessels in the regulated area. The Patrol Commander shall be designated by the cognizant Coast Guard Sector Commander; will be a U.S. Coast Guard commissioned officer, warrant officer, or petty officer to act as the Sector Commander's official representative; and will be located aboard the lead official patrol vessel. As the Sector Commander's representative, the PATCOM may terminate the event any time it is deemed necessary for the protection of life and property. PATCOM may be reached on VHF-FM Channel 13 (156.65 MHz) or 16 (156.8 MHz) when required, by the call sign "PATCOM".

(4) The Patrol Commander may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

(5) The Coast Guard may be assisted by other Federal, state, or local agencies.

TABLE 1 TO § 100.1104

[All coordinates referenced use datum NAD 83]

1. Newport to Ensenada Yacht Race	
Sponsor	Newport Ocean Sailing Association.
Event Description	Sailing vessel race; open ocean.
Date	Fourth Friday in April.
Location	Newport Beach, CA.
Regulated Area	Starting area only. All waters of the Pacific Ocean near Newport Beach, CA bounded by a line starting 33°35'18" N, 117°53'18" W thence to 33°34'54" N, 117°53'18" W thence to 33°34'54" N, 117°54'30" W thence to 33°35'18" N, 117°54'30" W thence returning to the point of origin.

Dated: May 10, 2011.

J.R. Castillo,

Rear Admiral, U.S. Coast Guard, Commander,
Eleventh Coast Guard District.

[FR Doc. 2011-13037 Filed 5-25-11; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2009-0559]

RIN 1625-AA00

Safety Zones; Eleventh Coast Guard District Annual Fireworks Events

AGENCY: Coast Guard, DHS.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the verbiage in listing of

permanent safety zones during annual firework displays within the Eleventh Coast Guard District. This supplemental notice of proposed rulemaking changes the proposed regulation by adding clarifying language to the proposed regulation for San Diego Captain of the Port zone.

DATES: Comments and related material must be received by the Coast Guard on or before June 27, 2011. Requests for public meetings must be received by the Coast Guard on or before June 15, 2011.

ADDRESSES: You may submit comments identified by docket number USCG-2009-0559 using any one of the following methods:

(1) *Federal eRulemaking Portal:*
<http://www.regulations.gov>.

(2) *Fax:* 202-493-2251.

(3) *Mail:* Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

(4) *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

To avoid duplication, please use only one of these four methods. See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or e-mail Lieutenant Lucas Mancini, Eleventh Coast Guard District Prevention Division, Waterways Management Branch, Coast Guard; telephone 510-437-3801 e-mail Lucas.W.Mancini@uscg.mil. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2009–0559), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online (via <http://www.regulations.gov>) or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online via <http://www.regulations.gov>, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, click on the “submit a comment” box, which will then become highlighted in blue. In the “Document Type” drop down menu select “Proposed Rule” and insert “USCG–2009–0559” in the “Keyword” box. Click “Search” then click on the balloon shape in the “Actions” column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, click on the “read comments” box, which will then

become highlighted in blue. In the “Keyword” box insert “USCG–2009–0559” and click “Search.” Click the “Open Docket Folder” in the “Actions” column. You may also visit the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. We have an agreement with the Department of Transportation to use the Docket Management Facility.

Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the **Federal Register** (73 FR 3316).

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one using one of the four methods specified under **ADDRESSES**. Please explain why you believe a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

For information on facilities or services for individuals with disabilities or to request special assistance at the public meeting, contact Lieutenant Junior Grade Lucas Mancini at the telephone number or e-mail address indicated under the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Basis and Purpose

Firework displays are held annually on a recurring basis on the navigable waters within the Eleventh Coast Guard District. Many of the annual firework events requiring safety zones do not currently reflect changes in actual dates and other required information. These safety zones are necessary to provide for the safety of the crew, spectators, participants of the event, participating vessels, and other users and vessels of the waterway from the hazards associated with firework displays. This proposed rule will also provide the public current information on safety zone locations, size, and length of time the zones will be active.

The effect of these proposed safety zones will be to restrict general navigation in the vicinity of the events,

from the start of each event until the conclusion of that event. These areas will be patrolled at the discretion of the Coast Guard. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. These regulations are needed to keep spectators and vessels a safe distance away from the firework displays to ensure the safety of participants, spectators, and transiting vessels.

Discussion of Proposed Rule

The Coast Guard published a Notice of Proposed Rulemaking (NPRM) on February 9, 2011 entitled “Safety Zones; Eleventh Coast Guard District Annual Fireworks Events” in the **Federal Register** (76 FR 7131). We did not receive any comments on the proposed rule and did not receive any requests for a public meeting. A public meeting was not held. The NPRM published for this regulation proposed establishing safety zones for new annual fireworks events occurring in two Southern California Captain of the Port Zones (COTP) and on the Colorado River between Davis Dam (Bullhead City, Arizona) and Headgate Dam (Parker, Arizona), and also proposed to update existing safety zones to reflect current information on annual firework displays occurring within the Eleventh Coast Guard District.

The Coast Guard proposes to delete the limiting descriptor “commercial” as applied to vessels being allowed to transit through the regulated areas when permitted by PATCOM in 33 CFR 165.1123(b)(4); and 165.1124(b)(4). Often the PATCOM will allow all queued vessels to transit through a zone; for example during a long break in a race. The Coast Guard also proposes to revise the text of 100.1123(b)(3); and 100.1124(b)(3) to delete reference to the Patrol Commander (PATCOM) being located on the lead official patrol vessel. Often the PATCOM is located shoreside in a location that offers a better vantage point to monitor the event. The location of the PATCOM may also be dictated by radio communication requirements, or a need to be co-located with local law enforcement representatives.

Additionally, the Coast Guard proposes to change the dates for the Mission Bay 4th of July Fireworks and the Coronado, California Fireworks Display from a specific date to a range of dates (“the first week in July”). Due to the day of the week on which the 4th of July falls, these are not always the desired dates. The Coast Guard also proposes to change the date of the San Diego Parade of Lights Fireworks

Display from “late December” to “December” to allow for required scheduling flexibility when activating the safety zone. For administrative efficiency and to avoid potential problems, the Coast Guard proposed to amend Table 1 to § 165.1123 to reflect these changes. Finally, the proposed title of 33 CFR 165.1124 will be revised to clearly indicate the safety zones are located in the San Diego COTP.

Regulatory Analyses

We developed this proposed rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

Regulatory Planning and Review

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. This rule is not a significant regulatory action because the regulations exist for a limited period of time on a limited portion of the waterways. Furthermore, individuals and vessels desiring to use the affected portion of the waterways may seek permission from the Patrol Commander to use the affected areas.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. We expect this proposed rule will affect the following entities, some of which may be small entities: Owners and operators of vessels intending to fish, sightsee, transit, or anchor in the waters affected by these safety zones. These regulations will not have a significant economic impact on a substantial number of small entities for

several reasons: Small vessel traffic will be able to pass safely around the area and vessels engaged in event activities, sightseeing and commercial fishing have ample space outside of the area governed by the special local regulations to engage in these activities. Small entities and the maritime public will be advised of implementation of the safety zone via public notice to mariners or notice of implementation published in the **Federal Register**.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Junior Grade Lucas Mancini, Eleventh Coast Guard District Prevention Division, Waterways Management Branch, Coast Guard; telephone 510–437–3801, e-mail Lucas.W.Mancini@uscg.mil. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In

particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have Tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not

require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A preliminary environmental analysis checklist supporting this determination is

available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.1123 to read as follows:

§ 165.1123 Southern California Annual Firework Events for the San Diego Captain of the Port Zone.

(a) *General.* Safety zones are established for the events listed in Table 1 of this section. Further information on exact dates, times, and other details concerning the exact geographical description of the areas are published by the Eleventh Coast Guard District in the Local Notice to Mariners at least 20 days prior to the event.

(b) *Regulations.* All persons and vessels not registered with the sponsor as participants or as official patrol vessels are considered spectators. The

“official patrol” consists of any Coast Guard; other Federal, state, or local law enforcement; and any public or sponsor-provided vessels assigned or approved by the cognizant Coast Guard Sector Commander to patrol each event.

(1) No spectator shall anchor, block, loiter, nor impede the through transit of participants or official patrol vessels in the safety zone during all applicable effective dates and times unless cleared to do so by or through an official patrol vessel.

(2) When hailed and/or signaled by an official patrol vessel, any spectator located within a safety zone during all applicable effective dates and times shall come to an immediate stop.

(3) The Patrol Commander (PATCOM) is empowered to forbid and control the movement of all vessels in the safety zone. The Patrol Commander shall be designated by the cognizant Coast Guard Sector Commander; will be a U.S. Coast Guard commissioned officer, warrant officer, or petty officer to act as the Sector Commander's official representative. As the Sector Commander's representative, the PATCOM may terminate the event any time it is deemed necessary for the protection of life and property. PATCOM may be reached on VHF-FM Channel 13 (156.65 MHz) or 16 (156.8 MHz) when required, by the call sign “PATCOM”.

(4) The Patrol Commander may, upon request, allow the transit of vessels through the safety zone when it is safe to do so.

(5) The Coast Guard may be assisted by other Federal, state, or local agencies.

TABLE 1 TO § 165.1123

[All coordinates referenced use datum NAD 83]

1. San Diego, CA POPS Fireworks Display	
Sponsor	Fireworks America.
Event Description	Fireworks Display.
Date	Friday/Saturday/Sunday Last weekend of June through first weekend of September.
Location	San Diego Bay South Embarcadero.
Regulated Area	800-foot radius safety zone around tug/barge combination.
2. Fourth of July Fireworks, Mission Bay	
Sponsor	Mission Bay 4th of July Fireworks.
Event Description	Fireworks Display.
Date	The first week in July.
Location	Mission Bay/Paradise Point and Sail Bay, CA.
Regulated Area	800-foot radius safety zone around tug/barge combination.
3. Coronado Fourth of July Fireworks	
Sponsor	Coronado, CA.
Event Description	Fireworks Display.
Date	The first week in July.

TABLE 1 TO § 165.1123—Continued

[All coordinates referenced use datum NAD 83]

Location	Glorietta Bay, CA.
Regulated Area	All navigable waters of San Diego Bay in San Diego, CA within a 1200 foot radius of the fireworks barge located at approximately 32°40'41" N, 117°10'11" W. Note: This will result in no through vessel traffic of Glorietta Bay for the duration of the fireworks display.

4. San Diego Parade of Lights Fireworks Display

Sponsor	Greater Shelter Island Association.
Event Description	Boat Parade.
Date	December.
Location	San Diego Harbor.
Regulated Area	The northern portion of the San Diego Main Ship Channel from Seaport Village to the Shelter Island Basin. (Note: See also 33 CFR 100.1101, Table 1, number 5 for related marine event).

3. Add § 165.1124 to read as follows:

§ 165.1124 Annual Firework Events on the Colorado River, between Davis Dam (Bullhead City, Arizona) and Headgate Dam (Parker, Arizona) within the San Diego Captain of Port Zone.

(a) *General.* Safety zones are established for the events listed in Table 1 of this section. Further information on exact dates, times, and other details concerning the exact geographical description of the areas are published by the Eleventh Coast Guard District in the Local Notice to Mariners at least 20 days prior to the event.

(b) *Regulations.* All persons and vessels not registered with the sponsor as participants or as official patrol vessels are considered spectators. The "official patrol" consists of any Coast

Guard; other Federal, state, or local law enforcement; and any public or sponsor-provided vessels assigned or approved by the cognizant Coast Guard Sector Commander to patrol each event.

(1) No spectator shall anchor, block, loiter, nor impede the through transit of participants or official patrol vessels in the safety zone during all applicable effective dates and times unless cleared to do so by or through an official patrol vessel.

(2) When hailed and/or signaled by an official patrol vessel, any spectator located within a safety zone during all applicable effective dates and times shall come to an immediate stop.

(3) The Patrol Commander (PATCOM) is empowered to forbid and control the movement of all vessels in the safety zone. The Patrol Commander shall be

designated by the cognizant Coast Guard Sector Commander; will be a U.S. Coast Guard commissioned officer, warrant officer, or petty officer to act as the Sector Commander's official representative. As the Sector Commander's representative, the PATCOM may terminate the event any time it is deemed necessary for the protection of life and property. PATCOM may be reached on VHF-FM Channel 13 (156.65 MHz) or 16 (156.8 MHz) when required, by the call sign "PATCOM".

(4) The Patrol Commander may, upon request, allow the transit of vessels through the safety zone when it is safe to do so.

(5) The Coast Guard may be assisted by other Federal, state, or local agencies.

TABLE 1 TO § 165.1124

[All coordinates referenced use datum NAD 83]

1. Avi Resort & Casino Memorial Day Fireworks

Sponsor	Avi Resort & Casino.
Event Description	Fireworks Display.
Date	Sunday before Memorial Day.
Location	Laughlin, NV.
Regulated Area	River closure from 8 pm–10 pm. The safety zone includes all navigable waters of the lower Colorado River at Laughlin, NV encompassed by the following coordinates: 35°01'05" N, 114°38'20" W; 35°01'05" N, 114°38'15" W; along the shoreline to 35°00'50" N, 114°38'13" W; 35°00'49" N, 114°38'18" W; along the shoreline to 35°01'05" N, 114°38'20" W.

2. Rockets Over the River

Sponsor	Laughlin Tourism Committee.
Event Description	Fireworks Display.
Date	First week in July.
Location	Laughlin, NV.

TABLE 1 TO § 165.1124—Continued

[All coordinates referenced use datum NAD 83]

Regulated Area	The temporary safety zone is specifically defined as all navigable waters of the lower Colorado River at Laughlin, NV encompassed by the following coordinates: 35°09'53" N, 114°34'15" W; 35°09'53" N, 114°34'07" W; along the shoreline to 35°09'25" N, 114°34'09" W; 35°09'06" N, 114°34'17" W; along the shoreline to 35°09'53" N, 114°34'15" W.
3. Avi Resort & Casino Fourth of July Fireworks	
Sponsor	Avi Resort & Casino.
Event Description	Fireworks Display.
Date	First week in July.
Location	Laughlin, NV.
Regulated Area	River closure from 8 pm–10 pm. The safety zone includes all navigable waters of the lower Colorado River at Laughlin, NV encompassed by the following coordinates: 35°01' 05" N, 114°38'20" W; 35°01'05" N, 114°38'14" W; along the shoreline to 35°00'50" N, 114°38'13" W; 35°00'49" N, 114°38'18" W; along the shoreline to 35°01'05" N, 114°38'20" W.
4. Avi Resort & Casino Labor Day Fireworks	
Sponsor	Avi Resort & Casino.
Event Description	Fireworks Display.
Date	Sunday before Labor Day.
Location	Laughlin, NV.
Regulated Area	River closure from 8 pm–10 pm. The safety zone includes all navigable waters of the lower Colorado River at Laughlin, NV encompassed by the following coordinates: 35°01'05" N, 114°38'20" W; 35°01'05" N, 114°38'15" W; along the shoreline to 35°00'20" N, 114°38'13" W; 35°00'49" N, 114°38'18" W; along the shoreline to 35°01'05" N, 114°38'20" W.

4. Add § 165.1125 to read as follows:

§ 165.1125 Southern California Annual Firework Events for the Los Angeles Long Beach Captain of the Port zone.

(a) *General.* Safety zones are established for the events listed in Table 1 of this section. Further information on exact dates, times, and other details concerning the exact geographical description of the areas are published by the Eleventh Coast Guard District in the Local Notice to Mariners at least 20 days prior to the event.

(b) *Regulations.* All persons and vessels not registered with the sponsor as participants or as official patrol vessels are considered spectators. The "official patrol" consists of any Coast Guard; other Federal, state, or local law enforcement; and any public or sponsor-

provided vessels assigned or approved by the cognizant Coast Guard Sector Commander to patrol each event.

(1) No spectator shall anchor, block, loiter, nor impede the through transit of participants or official patrol vessels in the safety zone during all applicable effective dates and times unless cleared to do so by or through an official patrol vessel.

(2) When hailed and/or signaled by an official patrol vessel, any spectator located within a safety zone during all applicable effective dates and times shall come to an immediate stop.

(3) The Patrol Commander (PATCOM) is empowered to forbid and control the movement of all vessels in the safety zone. The Patrol Commander shall be designated by the cognizant Coast Guard

Sector Commander; will be a U.S. Coast Guard commissioned officer, warrant officer, or petty officer to act as the Sector Commander's official representative; and will be located aboard the lead official patrol vessel. As the Sector Commander's representative, the PATCOM may terminate the event any time it is deemed necessary for the protection of life and property. PATCOM may be reached on VHF-FM Channel 13 (156.65MHz) or 16 (156.8MHz) when required, by the call sign "PATCOM".

(4) The Patrol Commander may, upon request, allow the transit of commercial vessels through the safety zone when it is safe to do so.

(5) The Coast Guard may be assisted by other Federal, state, or local agencies.

TABLE 1 TO § 165.1125

[All coordinates referenced use datum NAD 83]

1. Cambria American Legion Post Fourth of July Fireworks	
Sponsor	Cambria American Legion Post.
Event Description	Fireworks Display.
Date	July 4th.
Location	Shamel Beach, Cambria, CA.

TABLE 1 TO § 165.1125—Continued
 [All coordinates referenced use datum NAD 83]

Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.
2. LA County Dept of Beach and Harbors 4th of July Fireworks	
Sponsor	Los Angeles, CA County Dept of Beach and Harbors.
Event Description	Fireworks Display.
Date	July 4th.
Location	Main Ship Channel of Marina Del Rey, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.
3. Fourth of July Fireworks, City of Dana Point	
Sponsor	City of Dana Point, CA.
Event Description	Fireworks Display.
Date	July 4th.
Location	Offshore Dana Point Harbor, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.
4. Fourth of July Fireworks, City of Long Beach	
Sponsor	City of Long Beach, CA.
Event Description	Fireworks Display.
Date	July 4th.
Location	Long Beach Harbor, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.
5. Fourth of July Fireworks, Irvine Cove Community Association	
Sponsor	Irvine Cove Community Association.
Event Description	Fireworks Display.
Date	July 4th.
Location	Offshore Laguna Beach, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.
6. Fourth of July Fireworks, Emerald Bay Community Association	
Sponsor	Emerald Bay Community Association.
Event Description	Fireworks Display.
Date	July 4th.
Location	Offshore Laguna Beach, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.

TABLE 1 TO § 165.1125—Continued
[All coordinates referenced use datum NAD 83]

7. Fourth of July Fireworks, Morro Bay CoC	
Sponsor	Morro Bay Chamber of Commerce.
Event Description	Fireworks Display.
Date	July 4th.
Location	Offshore Morro Bay State Park.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.
8. Fourth of July Fireworks, Catalina Island CoC	
Sponsor	Catalina Island Chamber of Commerce.
Event Description	Fireworks Display.
Date	July 4th.
Location	Avalon Bay, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.
9. Fourth of July Fireworks, City of Santa Barbara	
Sponsor	City of Santa Barbara, CA.
Event Description	Fireworks Display.
Date	July 4th.
Location	Harbor Entrance of Santa Barbara, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.
10. Fourth of July Fireworks, City of Faria	
Sponsor	City of Faria, CA.
Event Description	Fireworks Display.
Date	July 4th.
Location	Offshore Faria Beach, CA
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.
11. Fourth of July Fireworks, City of Redondo Beach	
Sponsor	City of Redondo Beach, CA.
Event Description	Fireworks Display.
Date	July 4th.
Location	Offshore Redondo Beach, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.
12. Fourth of July Fireworks, City of San Pedro	
Sponsor	City of San Pedro, CA.
Event Description	Fireworks Display.
Date	July 4th.
Location	Offshore Cabrillo Beach, CA.

TABLE 1 TO § 165.1125—Continued
[All coordinates referenced use datum NAD 83]

Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.
13. Fourth of July Fireworks, City of Cayucos	
Sponsor	City of Cayucos, CA.
Event Description	Fireworks Display.
Date	July 4th.
Location	Cayucos Pier.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.

5. Revise § 165.1191 to read as follows:

§ 165.1191 Northern California and Lake Tahoe Area Annual Fireworks Events.

(a) *General.* Safety zones are established for the events listed in Table 1 of this section. Further information on exact dates, times, and other details concerning the exact geographical description of the areas are published by the Eleventh Coast Guard District in the Local Notice to Mariners at least 20 days prior to the event.

(b) *Regulations.* All persons and vessels not registered with the sponsor as participants or as official patrol vessels are considered spectators. The “official patrol” consists of any Coast Guard; other Federal, state, or local law enforcement; and any public or sponsor-

provided vessels assigned or approved by the cognizant Coast Guard Sector Commander to patrol each event.

(1) No spectator shall anchor, block, loiter, nor impede the through transit of participants or official patrol vessels in the safety zone during all applicable effective dates and times unless cleared to do so by or through an official patrol vessel.

(2) When hailed and/or signaled by an official patrol vessel, any spectator located within a safety zone during all applicable effective dates and times shall come to an immediate stop.

(3) The Patrol Commander (PATCOM) is empowered to forbid and control the movement of all vessels in the safety zone. The Patrol Commander shall be designated by the cognizant Coast Guard

Sector Commander; will be a U.S. Coast Guard commissioned officer, warrant officer, or petty officer to act as the Sector Commander’s official representative; and will be located aboard the lead official patrol vessel. As the Sector Commander’s representative, the PATCOM may terminate the event any time it is deemed necessary for the protection of life and property. PATCOM may be reached on VHF-FM Channel 13 (156.65 MHz) or 16 (156.8 MHz) when required, by the call sign “PATCOM”.

(4) The Patrol Commander may, upon request, allow the transit of commercial vessels through the safety zone when it is safe to do so.

(5) The Coast Guard may be assisted by other Federal, state, or local agencies.

TABLE 1 TO § 165.1191
[All coordinates referenced use datum NAD 83]

1. San Francisco Giants Fireworks Display	
Sponsor	San Francisco Giants Baseball Team.
Event Description	Fireworks display in conjunction with baseball season home games.
Date	All season home games at AT&T Park.
Location	1,000 feet off of Pier 48.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.
2. KFOG KaBoom	
Sponsor	KFOG Radio, San Francisco, CA.
Event Description	Fireworks Display.
Date	Second or Third Saturday in May.
Location	1,200 feet off Candlestick Point, San Francisco, CA.

TABLE 1 TO § 165.1191—Continued
[All coordinates referenced use datum NAD 83]

Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.
3. Fourth of July Fireworks, City of Eureka	
Sponsor	City of Eureka, CA.
Event Description	Fireworks Display.
Date	July 4th.
Location	Humboldt Bay, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.
4. Fourth of July Fireworks, Crescent City	
Sponsor	Crescent City, CA.
Event Description	Fireworks Display.
Date	July 4th.
Location	Crescent City Harbor.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.
5. Fourth of July Fireworks, City of Monterey	
Sponsor	City of Monterey, CA: Recreation & Community Services Department.
Event Description	Fireworks Display.
Date	July 4th.
Location	Monterey Bay, CA: East of Municipal Wharf #2.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.
6. Light up the Sky Fireworks Display/Pillar Point Harbor Fireworks	
Sponsor	Various sponsors.
Event Description	Fireworks Display.
Date	July 4th.
Location	Half Moon Bay, CA.
Regulated Area	Pillar Point Harbor within the area of navigable waters within a 1,000-foot radius of the launch platform located on the harbor break wall.
7. Peninsula Fireworks Spectacular, Redwood City	
Sponsor	Peninsula Celebration Association.
Event Description	Fireworks Display.
Date	July 4th.
Location	Redwood City, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.

TABLE 1 TO § 165.1191—Continued

[All coordinates referenced use datum NAD 83]

8. San Francisco Independence Day Fireworks Display	
Sponsor	The City of San Francisco, CA and the Fisherman's Wharf Association.
Event Description	Fireworks Display.
Date	July 4th.
Location 1	A barge located approximately 1000 feet off San Francisco Pier 39 at approximately 37°48'49" N, 122°24'46" W.
Location 2	The end of the San Francisco Municipal Pier at Aquatic Park at approximately 37°48'38" N, 122°24'30" W.
Regulated Area 1	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.
Regulated Area 2	The area of navigable waters within a 1,000-foot radius of the launch platform located on the Municipal Pier.
9. Jack London Square Fourth of July Fireworks	
Sponsor	Jack London Square Business Association.
Event Description	Fireworks Display.
Date	July 4th.
Location	Oakland Inner Harbor, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.
10. Fourth of July Fireworks, Berkley Marina	
Sponsor	Berkeley Marina.
Event Description	Fireworks Display.
Date	July 4th.
Location	Berkeley Pier, CA
Regulated Area	The area of navigable waters within a 1,000-foot radius of the launch platform located on the Berkeley Pier.
11. Fourth of July Fireworks, City of Richmond	
Sponsor	City of Richmond.
Event Description	Fireworks Display.
Date	Week of July 4th.
Location	Richmond Harbor, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.
12. Fourth of July Fireworks, City of Sausalito	
Sponsor	City of Sausalito.
Event Description	Fireworks Display.
Date	July 4th.
Location	1,000 feet off-shore from Sausalito, CA waterfront, north of Spinnaker Restaurant.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.
13. Fourth of July Fireworks, City of Martinez	
Sponsor	City of Martinez.
Event Description	Fireworks Display.

TABLE 1 TO § 165.1191—Continued
[All coordinates referenced use datum NAD 83]

Date	July 4th.
Location	Carquinez Strait, CA
Regulated Area	The area of navigable waters within a 1,000-foot radius of the launch platform located on a Martinez Marina Pier.
14. Fourth of July Fireworks, City of Antioch	
Sponsor	City of Antioch.
Event Description	Fireworks Display.
Date	July 4th.
Location	San Joaquin River, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the moving fireworks display.
15. Fourth of July Fireworks, City of Pittsburg	
Sponsor	City of Pittsburg.
Event Description	Fireworks Display.
Date	July 4th.
Location	Suisun Bay, CA.
Regulated Area	The area of navigable waters within a 1,000-foot radius of the launch platform located on a Pittsburg Marina Pier.
16. Independence Day Celebration, City of Stockton	
Sponsor	City of Stockton.
Event Description	Fireworks Display.
Date	July 4th.
Location	Stockton, CA Deep Water Ship Channel.
Regulated Area	The area of navigable waters from the Port of Stockton to Mcleod Lake; beginning at 37°57'06" N, 121°19'35" W, then north to 37°57'10" N, 121°19'36" W, then north-east 37°57'24" N, 121°17'35" W, south-west 37°57'15" N, 121°17'41" W, then south-east 37°57'14" N, 121°17'31" W, and then back to the beginning point.
17. Hilton Fourth of July Fireworks	
Sponsor	Hilton Corporation.
Event Description	Fireworks Display.
Date	July 4th.
Location	San Joaquin River, near Venice Island, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.
18. Fourth of July Fireworks Display, Tahoe City, CA	
Sponsor	Tahoe City Rotary.
Event Description	Fireworks Display.
Date	July 4th.
Location	Off-shore from Common Beach, Tahoe City, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.
19. Fourth of July Fireworks Display, Glenbrook NV	
Sponsor	Glenbrook Community Homeowners Association.
Event Description	Fireworks Display.
Date	July 4th.

TABLE 1 TO § 165.1191—Continued

[All coordinates referenced use datum NAD 83]

Location	Off-shore Glenbrook Beach, NV.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.

20. Independence Day Fireworks, Kings Beach, CA

Sponsor	North Tahoe Business Association.
Event Description	Fireworks Displays.
Date	Week of July 4th.
Location	Off-shore from Kings Beach, CA
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.

21. "Lights on the Lake" Fourth of July Fireworks, South Lake Tahoe, CA

Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	Week of July 4th.
Location	Off South Lake Tahoe, CA near the NV Border.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.

22. Red, White, and Tahoe Blue Fireworks, Incline Village, NV

Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	Week of July 4th.
Location	500–1,000 feet off Incline Village, NV in Crystal Bay.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.

23. Independence Day Fireworks Display, Homewood, CA

Sponsor	Westshore Café.
Event Description	Fireworks Display.
Date	Week of July 4th.
Location	Homewood, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.

24. "Labor Day Fireworks Display" South Lake Tahoe, CA

Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	Labor Day.
Location	Off South Lake Tahoe, California near the Nevada Border.

TABLE 1 TO § 165.1191—Continued
[All coordinates referenced use datum NAD 83]

Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.
25. Fleet Week Fireworks	
Sponsor	Various Sponsors.
Event Description	Fireworks Display.
Date	Second Friday and Saturday in October.
Location	1,000 feet off Pier 3, San Francisco, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.
26. Monte Foundation Fireworks	
Sponsor	Monte Foundation Fireworks.
Event Description	Fireworks Display.
Date	Second Saturday in October.
Location	Sea Cliff State Beach Pier in Aptos, CA.
Regulated Area	1000-foot safety zone around the navigable waters of the Sea Cliff State Beach Pier.
27. Rio Vista Bass Derby Fireworks	
Sponsor	Rio Vista Chamber of Commerce.
Event Description	Fireworks Display.
Date	Second Saturday in October.
Location	500 feet off Rio Vista, CA waterfront.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.
28. San Francisco New Years Eve Fireworks Display	
Sponsor	City of San Francisco.
Event Description	Fireworks Display.
Date	New Years Eve, December 31st.
Location	1,000 feet off Pier 2, San Francisco, CA.
Regulated Area	100-foot radius around the fireworks launch barge during the loading of pyrotechnics aboard the fireworks barge and during the transit of the fireworks barge from the loading location to the display location. Increases to a 1000-foot radius upon commencement of the fireworks display.
29. Sacramento New Years Eve Fireworks Display	
Sponsor	Sacramento Convention and Visitors' Bureau.
Event Description	Fireworks Display.
Date	New Years Eve, December 31st.
Location	Near Tower Bridge, Sacramento River.
Regulated Area	The navigable waters of the Sacramento River surrounding the shore-based launch locations between two lines drawn 1,000 feet south of Tower Bridge, and 1,000 feet north of the I Street Bridge.

Dated: May 10, 2011.

J.R. Castillo,

*Rear Admiral, U.S. Coast Guard, Commander,
Eleventh Coast Guard District.*

[FR Doc. 2011-13036 Filed 5-25-11; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900-AN86

Payment or Reimbursement for Emergency Services for Nonservice- Connected Conditions in Non-VA Facilities

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Department of Veterans Affairs (VA) "Payment or Reimbursement for Emergency Services for Nonservice-Connected Conditions in Non-VA Facilities" regulations to conform with changes made by certain sections of the Expansion of Veteran Eligibility for Reimbursement Act. Some of the revisions in this proposed rule are purely technical, matching the language of our regulations to the language of the revised statute, while others set out VA's policies regarding the implementation of statutory requirements. The proposed rule would expand the qualifications for payment or reimbursement to veterans who receive emergency services in non-VA facilities, and would establish accompanying standards for the method and amount of payment or reimbursement.

DATES: Comments on the proposed rule must be received by VA on or before July 25, 2011.

ADDRESSES: Written comments may be submitted through <http://www.Regulations.gov>; by mail or hand-delivery to the Director, Regulations Management (02REG), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1068, Washington, DC 20420; or by fax to (202) 273-9026. Comments should indicate that they are submitted in response to "RIN 2900-AN86—Payment or Reimbursement of Emergency Services for Nonservice-Connected Conditions in Non-VA Facilities." Copies of comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 461-4902 for an appointment.

This is not a toll-free number. In addition, during the comment period, comments may be viewed online at <http://www.Regulations.gov> through the Federal Docket Management Systems (FDMS).

FOR FURTHER INFORMATION CONTACT:

Holley Niethammer, Fee Policy Chief, National Fee Program Office, Veterans Health Administration, Department of Veterans Affairs, 3773 Cherry Creek Dr. N., East Tower, Ste 495, Denver, CO 80209, (303) 370-5062. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On February 1, 2010, Congress enacted the Expansion of Veteran Eligibility for Reimbursement Act (2010 Act), amending 38 U.S.C. 1725. Current VA regulations implement section 1725 in 38 CFR 17.1000 through 17.1008 under the undesignated heading "Payment or Reimbursement for Emergency Services for Nonservice-Connected Conditions in Non-VA Facilities." This proposed rule would revise §§ 17.1001, 17.1002, 17.1004, and 17.1005. These revisions would eliminate certain exclusions from emergency care payment or reimbursement, and define the payment limitations for those qualifying for payment or reimbursement under the law as amended by the 2010 Act.

The 2010 Act amended 38 U.S.C. 1725 by removing a provision that included automobile insurance carriers in the definition of "health-plan contract." Under 38 U.S.C. 1725, veterans who are covered by a health-plan contract are ineligible for VA payment or reimbursement. Thus, we propose to remove current 38 CFR 17.1001(a)(5), which includes automobile insurance in the definition of "health-plan contract." These proposed amendments would implement VA's authority to pay or reimburse claimants for providing emergency services to a veteran if the veteran received, or is legally eligible to receive, partial payment towards emergency services from an automobile insurer.

The 2010 Act also amended 38 U.S.C. 1725 by removing a provision that precluded certain claimants from payment or reimbursement by VA for emergency care at non-VA facilities. Parties who qualified as claimants under former section 1725 (as implemented by VA in current 38 CFR 17.1004(a)) included veterans, the provider of the emergency treatment, or the person or organization that paid for such treatment on behalf of the veteran.

Under the 2010 Act, claimants who are entitled to partial payment from a third party for providing non-VA emergency services to a veteran are no longer barred from also receiving VA payment or reimbursement for such care. Prior to the 2010 Act, section 1725 required that VA deny any claim in which a veteran has "other contractual or legal recourse against a third party that would, in whole or in part, extinguish such liability to the provider." The 2010 Act removed "or in part" from this exclusion. In order to remove this partial payment exclusion from VA regulations, we propose to remove the clause, "or in part", from § 17.1002(h), to parallel the language in 38 U.S.C. 1725.

In addition, the 2010 Act authorized, but did not require, VA to provide repayment under section 1725 "for emergency treatment furnished to a veteran before the date of the enactment of th[e 2010] Act, if the Secretary determines that, under the circumstances applicable with respect to the veteran, it is appropriate to do so." We interpret this provision to allow VA, through regulation, to provide retroactive reimbursement, and we propose to implement this authority in § 17.1004(f).

Under current § 17.1004(d), claims for reimbursement must be filed within 90 days after the latest of four dates: (1) July 19, 2001 (the effective date of § 17.1004(d) when VA first promulgated the regulation); (2) the date that the veteran was discharged from the facility that provided the emergency treatment; (3) the date of the veteran's death (under specified circumstances); or (4) the date that the veteran finally exhausted, without success, action to obtain reimbursement from a third party. A retroactive claim under proposed § 17.1004(f) would be an exception to this rule. Moreover, the first requirement in current § 17.1004(d)(1)—that claims must be filed within the 90-day period after July 19, 2001—is an outdated provision because all claims now received by VHA for reimbursement must, as a practical matter, be filed many years after July 19, 2001. Therefore, we propose to remove § 17.1004(d)(1).

Because proposed § 17.1004(f) would authorize reimbursement for a claim that does not meet the generally applicable criteria in § 17.1004(d), we would make the provision apply "[n]otwithstanding paragraph (d)". We would also require that the emergency treatment was received on or after July 19, 2001. We use this date from current § 17.1004(d)(1) because there is no indication in the language or history of the 2010 Act that Congress intended a